

Ser. No. 10/593,496

Docket No. 1830.1026

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claim 2 has been canceled, and claims 1 and 14 have been amended.

Amended claim 1 now incorporates the subject matter of canceled claim 2. The amendment is supported by the specification and the originally filed claims.

Amended claim 14 now is directed to a master batch used as one of the preferable means for producing the resin composition according to amended claim 1.

No new matter is being presented, and approval and entry are respectfully requested.

Therefore, claims 1, 5-6, and 8-16 are pending and under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:

Applicants are simply rewriting claim 2 in independent form. Therefore, Applicants request entry of this Rule 116 Response and Request for Reconsideration because:

(a) at least certain of the rejected claims have been canceled thereby at least reducing the issues for appeal;

(b) it is believed that the amendment of claims 1 and 14 puts this application into condition for allowance;

(c) the amendments were not earlier presented because the Applicant(s) believed in good faith that the cited prior art did not disclose the prior claimed invention;

(d) the amendment of claims 1 and 14 should not entail any further search by the Examiner since no new features are being added and no new issues are being raised; and

(e) the amendments do not significantly alter the scope of the claims and places the application at least into a better form for appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the

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claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

INFORMATION DISCLOSURE STATEMENT (IDS)

The Information Disclosure Statement (IDS) filed on July 7, 2008 was not considered because the Examiner asserts that, "no 1.17(p) fee has been received." As the Examiner recognized, Applicants were not aware that an office action had issued when the IDS was filed. However, since the references were known for less than three months, a fee should not have been necessary. Enclosed is an additional (marked-up) copy of the Information Disclosure Statement. In this additional copy, applicants acknowledge issuance of an office action and certify that the references were known for less than three months prior to July 7, 2008.

The Examiner is respectfully requested to consider the references because, at the time they were filed, there was full compliance with the rules. If applicants *nunc pro tunc* certification statement is not acceptable to the Examiner, the Examiner is requested to charge the certification fee to Staas & Halsey Deposit Account No. 19-3935. It should be noted that the IDS, as filed, contained the deposit account authorization, but for some reason, the certification fee was not charged.

REJECTION UNDER 35 U.S.C. §112:

Claims 1, 2, 5, 6, 8-16 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Examiner contends that the specification does not disclose the negative limitation that component "C" contains "no ionic functional groups" and therefore, the Examiner considers this limitation as new matter.

Applicants disagree with the Examiner, because, as stated in the Amendment filed on December 19, 2008 (page 5, lines 17-19 and 22-23), and as described in the specification (Application as filed, page 23, lines 11-28), the polyesters contain "no ionic functional groups." Specifically, the pertinent paragraph in the Application as filed states the following:

"For the reduction of the water absorption percentage, i.e., one of the effects of the resin composition of the invention, the above-exemplified polyesters preferably contains no ionic functional group."

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Based on the above paragraph, the description with regard to the polyesters containing no ionic functional groups is sufficient. The description explicitly shows that Applicants had possession of the claimed invention at the time of filing of this application.

Now that the issue of description has been fully addressed, claims 1, 5-6 and 8-16 are believed to fully comply with 35 U.S.C. §112. Applicants request that the rejection under §112 be withdrawn.

REJECTION UNDER 35 U.S.C. §103:

Claims 1, 2, 5, 6 and 8-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Takagi et al. (U.S. Patent Application Publication 2003/0130405) ("Takagi").

The Examiner asserts that component "B" in Takagi comprises polyester and polyamide (Takagi, claim 5), while component "A" in Takagi comprises polyphenylene ether (Takagi, claim 4) and component "D" in Takagi is carbon fibril.

However, the Examiner admits that there is no example in Takagi that uses all of the components in the application. Nevertheless, the Examiner concludes that it would have been obvious as to one ordinary skill in the art to arrive at the invention according to the application "by selecting from the various disclosures of the reference." Furthermore, the Examiner argues that Takagi's disclosure "implies that any proportions will work" with respect to the amounts in the components in the application.

Applicants respectfully disagree with the Examiner, especially in light of this Amendment. Amended independent claim 1 recites four components: A, B, C and D in the following manner:

"A resin composition comprising

(A) a polyamide,

(B) a polyphenylene ether,

(C) poly(ethylene terephthalate) and/or poly(trimethylene terephthalate) and/or poly(butylene terephthalate), which contain no ionic functional group, and

(D) a conductive carbon filler,

wherein the polyamide forms a continuous phase and the polyphenylene ether and the component (C) form a discontinuous phase; and

wherein the component (C) is contained in an amount of 0.1 to 25 parts by mass based on 100 parts by mass of total amount of the polyamide and the polyphenylene ether."

Essentially, according to amended claim 1 of the application, component (C) is directed to poly(ethylene terephthalate) and/or poly(trimethylene terephthalate) and/or poly(butylene

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terephthalate), and that component (C) contains no ionic functional group. Furthermore, component (C) is contained in an amount of 0.1 to 25 parts by mass based on 100 parts by mass of the total amount of the polyamide, i.e. component (A), and the polyphenylene ether, i.e. component (B). In addition, the polyamide forms a continuous phase and the polyphenylene ether and the component (C) form a discontinuous phase.

A potential object of the present invention is to provide a resin composition and a resin molded article having both a high fluidity and excellent conductivity and surface luster and low water absorption properties, by blending a polyamide, polyphenylene ether, a conductive carbon filler and a particular polyester (Application as filed, page 5, lines 18-27). The proportion of the polyester in the resin is 0.1 to 25 parts by mass based on 100 parts by mass of the total amount of the polyamide and the polyphenylene ether (Application as filed, page 24, line 22, to page 25, line 12).

In contrast, **Takagi** teaches a resin composition containing a thermoplastic resin that comprises two different thermoplastic resins (components A and B), conductive carbon black (component C) and conductive carbon black having a larger specific surface area than that of component C (component D) (**Takagi**, page 1, paragraph [0009]). As the Examiner states (Office Action dated March 10, 2009, page 2, last paragraph), component B may be comprised of polyester and polyamide (**Takagi**, page 3, paragraphs [0034] and [0037]). However, **Takagi** explicitly teaches that the thermoplastic resin used as component B forms the sea phase (**Takagi**, page 4, paragraph [0047]). Furthermore, according to paragraph [0052] of **Takagi** (**Takagi**, page 5), component B thermoplastic resin (sea phase) will be 95 to 35 parts by weight in 100 parts by weight of the two thermoplastic resins combined (in a total of sea and island phases). In other words, **Takagi** is characterized in that polyamide and/or polyester are (is) the sea phase, i.e. a continuous phase, so that the thermoplastic resin composition has good mechanical strength and heat resistance (**Takagi**, page 1, paragraph [0001]).

To the contrary, the present invention requires that the polyamide forms a continuous phase, while the polyphenylene and the polyester should form a discontinuous phase, i.e. the island phase of the island-and-sea structure (Application as filed, page 44, line 28, to page 45, line 16). According to the present invention, the resin composition produces an excellent surface appearance due to the formation of the discontinuous phase by the polyester.

In this regard, the present invention is different and not obvious over **Takagi**. When the polyester forms a discontinuous phase as in the present invention, surface luster and electrical conductivity can be efficiently improved. Such advantageous effects of the present invention are not described or suggested in **Takagi**.

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While **Takagi** teaches about island-and-sea micro structures (**Takagi**, page 4, paragraphs [0046] and [0047]), **Takagi** teaches away from the invention according to amended claim 1 because **Takagi** requires its "component A" to be in the island phase (or discontinuous phase), while its "component B" to be in the sea phase (or continuous phase). According to **Takagi**, an example of "component A" is polyphenylene ether resin (**Takagi**, page 10, claim 4), and examples of "component B" are polyamide resin and polyester resin (**Takagi**, page 10, claim 5). In contrast, amended claim 1 of the application recites that the polyamide forms a continuous phase, while the polyphenylene ether and the polyesters according component (C) form a discontinuous phase.

Therefore, it would not have been possible for one having ordinary skill in the art to expect the advantageous effects of the present invention from **Takagi** which teaches quite a different location of the polyester component in the island-and-sea structure. Thus, the invention according to amended independent claim 1 of the application would not have been obvious over **Takagi**. Furthermore, dependent claims 5-6 and 8-16, being dependent from amended claim 1, would not have been obvious over **Takagi**.

Therefore, Applicants request that the rejection of claims 1, 2, 5, 6 and 8-16 under 35 U.S.C. §103(a) for being obvious over **Takagi** be withdrawn.

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CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date:

July 10, 2009

By:

Mark J. HenryMark J. Henry
Registration No. 36,162

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7th Floor
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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 10, 2009
STAAS & HALSEY
By Daniel C. O'Neil
Date 7-10-2009

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Attorney Docket No. 1830.1026

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Kazunori TERADA et al.

Application No.: 10/593,493

Group Art Unit: 1796

Confirmation No. 1676

Filed: September 20, 2006

Examiner:

For: CONDUCTIVE RESIN COMPOSITION

COPY

INFORMATION DISCLOSURE STATEMENTCommissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 CFR § 1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the subject application.

1. Enclosures accompanying this Information Disclosure Statement are:

- 1a. ☒ Form PTO-1449.
- 1b. ☒ Copy(ies) of IDS citation(s), except for U.S. Patents and U.S. Patent Application publications.
- 1c. ☒ English language copy of a communication(s) from a foreign Patent Office or a PCT International Search Report.
- 1d. ☒ English language translation (complete, Abstract or relevant portion(s)) attached to non-English language publications as indicated on the attached Form PTO-1449.
- 1e. ☐ Explanations of Relevancy of References (ATTACHMENT 1(e), hereto) for providing a concise explanation of non-English publications.
- 1f. ☐ List of Copending Applications (ATTACHMENT 1(f), hereto).
- 1g. ☒ List of Additional Submitted Documents (ATTACHMENT 1(g), hereto).

2. ☒ This Information Disclosure Statement is filed under 37 CFR § 1.97(b):

(Check either Item 2a or 2b or 2c or 2d)

- 2a. ☐ Within three months of the filing date of a national application;
- 2b. ☐ Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application.
- 2c. ☒ Before the mailing of a first Office Action on the merits; or
- 2d. ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114.

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3. ☒ This Information Disclosure Statement is filed under 37 CFR § 1.97(c) after the period specified in paragraph 2 above but before the mailing date of any of a Final Office Action under § 1.113, a Notice of Allowance under § 1.311 or an action that otherwise closes prosecution in the application, AND
- (Check either Item 3a or 3b; Item 3b to be checked if any reference known for more than 3 months)
- 3a. ☒ The § 1.97(e) Statement in Item 5 below is applicable; OR
- 3b. ☐ The \$180.00 fee set forth in 37 CFR § 1.17(p) is:
- ☐ enclosed.
- ☐ to be charged to Deposit Account No. 19-3935.
4. ☐ This Information Disclosure Statement is filed under 37 CFR § 1.97(d) after the period specified in paragraph 3 above, but on or before payment of the Issue Fee, AND
- 4a. ☐ The § 1.97(e) Statement in Item 5 below is applicable; AND
- 4b. ☐ The \$180.00 fee set forth in 37 CFR § 1.17(p) is:
- ☐ enclosed.
- ☐ to be charged to Deposit Account No. 19-3935.
5. ☒ Statement under § 1.97(e) (applicable if Item 3a or Item 4a is checked)
- (Check either Item 5a or 5b)
- 5a. ☒ In accordance with 37 CFR § 1.97(e)(1), it is stated that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. ☐ In accordance with 37 CFR § 1.97(e)(2), it is stated that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known by any individual designated in § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.
6. ☐ This is a continuation/divisional/continuation-in-part application under 37 CFR § 1.53(b).
- (Check appropriate Items 6a and/or 6b)
- 6a. ☐ Copies of the publications listed on the attached Form PTO-1449 which were previously cited in prior application Serial No. ___, filed on ___, and which is relied on for an earlier effective filing date for the subject application under 35 U.S.C. § 120, have been omitted pursuant to 37 CFR § 1.98(d).
- 6b. ☐ Copies of the publications listed on the attached Form PTO-1449 which were not previously cited in prior application Serial No. ___, filed on ___, and which is relied on for an earlier effective filing date for the subject application under 35 U.S.C. § 120, are provided herewith.

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7. ☐ This is a Request for Continued Examination under 37 CFR § 1.114.
(Check either Item 7a or 7b)
- 7a. ☐ The Issue Fee has not been paid.
- 7b. ☐ A Petition to Withdraw from Issue under 37 CFR § 1.313(c) is filed concurrently herewith or has been granted. A Request for Continued Examination under 37 CFR § 1.114, after payment of the Issue Fee, is proper in accordance with 37 CFR § 1.114(a), respectively.
8. ☐ This is a Supplemental Information Disclosure Statement.
(Check either Item 8a or 8b)
- 8a. ☐ This Supplemental Information Disclosure Statement under 37 CFR § 1.97(f) supplements the Information Disclosure Statement filed on _____. A bona fide attempt was made to comply with 37 CFR § 1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental IDS can be considered as if properly filed on _____.
- 8b. ☐ This Supplemental Information Disclosure Statement is timely filed within one (1) month of the Notice under 37 CFR §§ 1.97 and 1.98, mailed _____.
9. ☐ In accordance with 37 CFR § 1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:
(Check appropriate Items 9a, 9b, 9c and/or 9d)
- 9a. ☐ satisfied for the non-English language publication(s) cited on the enclosed "English language version of the search report or action which indicates the degree of relevance found by the foreign office". (See MPEP § 609, Minimum Requirements for an Information Disclosure Statement, Part A(3): Concise Explanation of Relevance, 8th Ed., Rev. 2)
- 9b. ☐ set forth in the application.
- 9c. ☐ satisfied for the non-English language publication(s) indicated on the attached Form PTO-1449 as having an English language translation (complete or relevant portion(s)) attached thereto.
- 9d. ☐ enclosed as Attachment 1(e), hereto.
10. No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than search report(s) from a counterpart foreign application or a PCT International Search Report, if submitted herewith). 37 CFR §§ 1.97(g) and (h).

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11. The Commissioner is authorized to credit any overpayment or charge any additional fee required under 37 CFR § 1.17 for this Information Disclosure Statement to Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Dated: July 7 2008
1201 New York Ave., N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

By: MBJ
Mark J. Henry
Registration No. 36,162

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Sheet 1 of 1

FORM PTO-1449	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY DOCKET NO. 1830.1026	APPLICATION NO. 10/593,496
INFORMATION DISCLOSURE STATEMENT <i>(Use several sheets if necessary)</i>		FIRST NAMED INVENTOR Kazunori TERADA et al.	
		FILING DATE September 20, 2006	GROUP ART UNIT 1796

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CLASS	SUB- CLASS	FILING DATE
	AA	2003/0116757	06/26/2003	Miyoshi et al.			
	AB	2003/0134963	07/17/2003	Miyoshi et al.			
	AC						
	AD						
	AE						
	AF						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	TRANSLATION YES NO	ABSTRACT
	AG	WO 99/45069	09/10/1999	WIPO	Machine- translated	
	AH					
	AI					
	AJ					
	AK					
	AL					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

TRANSLATION YES NO

	AM		
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EXAMINER	DATE CONSIDERED
<p>*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.</p>	

ATTACHMENT 1(g)

LIST OF ADDITIONAL SUBMITTED DOCUMENTS	ATTORNEY DOCKET NO.	APPLICATION NO.
	1830.1026	10/593,496
	FIRST NAMED INVENTOR	
	Kazunori TERADA et al.	
	FILING DATE	GROUP/ART UNIT
	September 20, 2006	1796

The following document(s) is/are listed in accordance with the duty of disclosure provisions of 37 CFR § 1.56, so that the Examiner may consider same should he deem any thereof to be material to examination of the subject application.

It is requested that the Examiner acknowledge his consideration of document(s) below-listed by initialing same in the space provided adjacent each such application and that the Examiner sign and date this form at the bottom thereof to confirm such consideration having been given.

This submission in no way represents an admission that any of the information listed herein constitutes prior art with respect to the subject application; and unless and until such prior art status is established, this submission is not a request that the information presented herein be printed on the face of any patent issuing from the subject application in which this information is being filed.

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	BA						
	BB						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION	
							YES	NO
	BC							
	BD							


OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

						TRANSLATION	
						YES	NO
	BE	Supplementary European Search Report, mailed June 4, 2008 and issued in corresponding European Patent Application No. 05730592.2-2115					

EXAMINER	DATE CONSIDERED
*EXAMINER: Initial if document considered, whether or not citation is in conformance with MPEP 809; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

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S&H Form: (10/08)

REPLY/AMENDMENT FEE TRANSMITTAL		Attorney Docket No.	1830.1026		
		Application Number	10/593,496		
		Filing Date	September 20, 2006		
		First Named Inventor	Kazunori TERADA et al.		
		Group Art Unit	1796		
AMOUNT ENCLOSED		Examiner Name	MULLIS, Jeffrey C.		
FEE CALCULATION (fees effective 10/02/08)					
CLAIMS AS AMENDED	Claims Remaining After Amendment	Highest Number Previously Paid For	Number Extra	Rate	Calculations
TOTAL CLAIMS	12	- 20 =	0	X \$ 52.00 =	\$ 0.00
INDEPENDENT CLAIMS	1	- 3 =	0	X \$ 220.00 =	0.00
Since an Official Action set an <u>original</u> due date of <u>June 10, 2009</u> , petition is hereby made for an extension to cover the date this reply is filed for which the requisite fee is enclosed (1 month (\$130)); (2 months (\$490)); (3 months (\$1,110)); (4 months (\$1,730)); (5 months (\$2,350));					\$130.00
If Notice of Appeal is enclosed, add (\$540.00)					
If Statutory Disclaimer under Rule 20(d) is enclosed, add fee (\$140.00)					
Information Disclosure Statement (Rule 1.17(p)) (\$180.00)					
Total of above Calculations =					\$ 130.00
Reduction by 50% for filing by small entity (37 CFR 1.9, 1.27 & 1.28)					
TOTAL FEES DUE =					\$ 130.00
(1) If entry (1) is less than entry (2), entry (3) is "0" (2) If entry (2) is less than 20, change entry (2) to "20". (4) If entry (4) is less than entry (5), entry (6) is "0" (5) If entry (5) is less than 3, change entry (5) to "3"					
METHOD OF PAYMENT					
<input type="checkbox"/> Check enclosed as payment. <input checked="" type="checkbox"/> Charge "TOTAL FEES DUE" to the Deposit Account No. below. <input checked="" type="checkbox"/> No payment is enclosed.					07/13/2009 PG00VANI 00000013 193935 18593496 01 FC:1251 130.00 DA
GENERAL AUTHORIZATION					
<input checked="" type="checkbox"/> If the above-noted "AMOUNT ENCLOSED" is not correct, the Commissioner is hereby authorized to credit any overpayment or charge any additional fees necessary to: Deposit Account No. <u>19-3935</u> Deposit Account Name <u>STAAS & HALSEY LLP</u>					
<input checked="" type="checkbox"/> The Commissioner is also authorized to credit any overpayments or charge any additional fees required under 37 CFR 1.16 (filing fees) or 37 CFR 1.17 (processing fees) during the prosecution of this application, including any related application(s) claiming benefit hereof pursuant to 35 USC § 120 (e.g., continuations/divisionals/CIPs under 37 CFR 1.53(b) and/or continuations/divisionals/CPAs under 37 CFR 1.53(d)) to maintain pendency hereof or of any such related application.					
SUBMITTED BY: STAAS & HALSEY LLP					
Typed Name	Mark J. Henry		Reg. No.	36,126	
Signature			Date	July 10 2009	

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 CERTIFICATE UNDER 37 CFR 1.8(a)
 I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 10, 2009
 By: Daniel C. Halsey
 Date: 7-10-2009